

Minutes
D.C. OFFICE OF EMPLOYEE APPEALS (OEA) BOARD MEETING
Tuesday, July 11, 2017
Location: 1100 4th Street, SW, Suite 380E
Washington, DC 20024

Persons Present: Lasheka Brown (OEA General Counsel), Sheila Barfield (OEA Executive Director), Sommer Murphy (OEA Acting Deputy General Counsel), Sheree Price (OEA Board Chair), Patricia Hobson Wilson (OEA Board Member), Vera Abbott (OEA Board Member), P. Victoria Williams (OEA Board Member), Wynter Clarke (OEA Paralegal), and Denise Clark (Member of the Public).

- I. Call to Order** – Sheree Price called the meeting to order at 11:08 a.m.
- II. Ascertainment of Quorum** – There was a quorum of Board members present for the office to conduct business.
- III. Adoption of Agenda** – Vera Abbott moved to adopt the Agenda. Patricia Hobson Wilson seconded the motion. The Agenda was adopted by the Board.
- IV. Minutes from Previous Meeting** – The June 6, 2017, meeting minutes were reviewed. There were no corrections. The minutes were accepted.
- V. New Business**

A. Public Comments on Motion to Expedite

- 1. There were no public comments offered on the Motion to Expedite.

B. Summary of Case

- 1. **Brendan Cassidy v. D.C. Public Schools, OEA Matter No. 2401-0253-10R13R16**– On June 29, 2017, Employee filed a Motion to Expedite his case. He asserts that OEA’s failure to apply DPM Chapter 24 has caused a two-year delay in his case. He contends that the time and cost devoted to research and writing in this matter will not be regained.

C. Public Comments on Petitions for Review

- 1. Denise Clark provided a statement on behalf of Sheena Washington. She stated that Agency did not have any new or substantial evidence on appeal. She also provided that Agency failed to meet its burden of proof. Therefore, she requested that Agency’s Petition for Review be denied.

D. Summary of Cases

- 1. **Carmen Faulkner v. D.C. Public Schools, OEA Matter No. 1601-0135-15R16**– This matter was previously before the OEA Board. Employee was a Teacher with Agency. Agency issued a notice to Employee that she would be terminated from her position because she received a score of “minimally effective” under IMPACT, its performance assessment system.

The Administrative Judge (“AJ”) issued her Initial Decision on February 17, 2016. She ruled that in accordance with OEA Rule 621, Employee’s case was dismissed for failure to prosecute due to her failure to attend the scheduled Pre-hearing Conference and her failure to submit a Good Cause Statement. Therefore, Employee’s case was dismissed.

The OEA Board held that Employee provided sufficient evidence that her representative was unavailable due to the sudden death of her mother. Therefore, in the interest of justice and fairness, the Board remanded to the Administrative Judge to consider the merits of Employee's appeal.

The AJ held a Status Conference and requested that both parties file briefs addressing whether Agency followed the proper District of Columbia statutes, regulations, and laws related to the IMPACT procedures. After considering briefs from both parties, the AJ held that Employee was entitled to a post-observation conference within fifteen days of her December 4, 2014 observation. Although the conference did not take place within the fifteen-day period, the AJ ruled that Agency did attempt to meet with Employee at least twice, as is required by the IMPACT procedures. She held that but for Employee's unavailability, Agency would have complied with the process. Therefore, she upheld Employee's termination.

Employee filed a Petition for Review on November 29, 2016. She argues that the Initial Decision was based on an erroneous interpretation of the law and was not based on substantial evidence. Further, she asserts that Agency failed to comply with the IMPACT requirements. Accordingly, she requests that she be reinstated and awarded damages and attorney's fees.

2. **Sheena Washington v. D.C. Public School System, Department of Transportation, OEA Matter No. 1601-0129-11R16** – Employee worked as a Motor Vehicle Operator with Agency. On January 31, 2008, Agency terminated Employee for failure to maintain a valid Commercial Driver's License ("CDL") with an S Class Endorsement.

The AJ issued her Initial Decision on October 15, 2013. The AJ held that all Motor Vehicle Operators were notified that they were required to have the S Class Endorsement to be in compliance with federal regulations. She ruled that Employee was placed on notice and failed to pass the practical skills portion of the exam, a prerequisite to obtaining the endorsement. Moreover, she provided that there was no evidence in the record to show that Employee took any training in preparation for her skills examination. Therefore, she upheld Agency's removal action.

On August 8, 2014, the Superior Court for the District of Columbia issued its decision affirming the AJ's Initial Decision. However, on February 17, 2016, the District of Columbia Court of Appeals issued its Memorandum Opinion and Judgment remanding the matter to OEA for the AJ to address why Employee was terminated from her position for failure to secure an S Class Endorsement, while other employees who also lacked the endorsement were permitted to continue to work.

On July 18, 2016, AJ Dohnji issued an Initial Decision on Remand. She found that Agency engaged in disparate treatment due to the credible testimony of Mr. Washington and Agency's documentary evidence related to Mr. Jennings. The AJ determined that neither Mr. Washington nor Mr. Jennings were disciplined in 2008 for failing to possess the required S Class Endorsement by the end of 2007, but Employee was disciplined for failing to comply with the same requirement. The AJ held that they all worked at Agency as Motor Vehicle Operators, and they were all required to obtain their S Class Endorsement by early 2008. However, Employee was terminated in March of 2008, while Mr. Jennings was allowed to continue to work until 2009. Additionally, Mr. Washington was allowed to drive without the S

Class Endorsement until June of 2008. Moreover, another employee was allowed to transfer to a Bus Attendant's position. As a result, the AJ ruled that Agency engaged in disparate treatment when it allowed similarly-situated employees other options but terminated Employee. Accordingly, the AJ reversed Agency's termination action and reinstated Employee pending her compliance with the driver's license requirement.

Agency filed its Petition for Review on August 16, 2016. It argues that if Employee is reinstated it would be in violation of District and federal law because Employee still does not have the S Class Endorsement and is not fit to operate a school bus. Agency asserts that Judge Dohnji did not hear the testimony regarding the employee who transferred to the Bus Attendant position, and it notes that Judge Dohnji's order did not request that it demote Employee to a Bus Attendant. Moreover, it provides that removal was within range set forth in the Table of Penalties and that removal was reasonable given the need of Agency to rely on its employees to transport students. Accordingly, Agency requests that its termination action be upheld.

On September 20, 2016, Employee filed her response to Agency's Petition for Review. As it relates to Agency's argument that adhering to AJ Dohnji's order would violate federal law, Employee provides that the order specifically states "pending her compliance with the driver's license requirement for the bus driver position." Thus, it is Employee's position that the order takes into account that she is required to adhere to the federal licensing requirements. Employee maintains that Agency engaged in disparate treatment. She explains that the AJ's decision relied on testimonies provided at the hearing and Agency's own submissions. Therefore, she concludes that the Initial Decision on Remand is proper and based on substantial evidence. Accordingly, Employee requests that Agency's petition be denied.

3. **Tameka Garner Barry v. Department of Public Works, OEA Matter No. 1601-0083-14**— Employee worked as a Parking Enforcement Officer with Agency. On May 23, 2014, Agency issued a final notice to suspend Employee for fifteen work days. The causes of action alleged were "any other on-duty or employment-related reason for corrective or adverse action that is not arbitrary or capricious – sleeping on the job" and "any other on-duty or employment-related act or omission that interferes with the efficiency and integrity of government operations – neglect of duty."

Before issuing her Initial Decision, the AJ held an evidentiary hearing on November 18, 2015. Both parties submitted closing statements. Agency asserted that a fifteen-day suspension without pay was the appropriate penalty for both charges. Agency explained that per the testimony provided by Employee's supervisor, sleeping while on duty was a serious offense that had significant ramifications. It reasoned that Employee could have easily been observed by a member of the public while sleeping in Agency's official vehicle. As such, sleeping while on duty could reasonably be expected to have an adverse impact on Agency's reputation. Therefore, Agency requested that its action of suspending Employee be upheld.

In Employee's closing statement, she opined that she was on a break with her partner, Ms. King. While Ms. King used the restroom, Employee stated that she waited in prayer and meditation for her to return. She was approached by her supervisor who accused her of sleeping despite her explanation of being in prayer while she waited for Ms. King to return. Employee argued that per the Standard Operating Procedures for Parking Officers and Supervisors, the facts did not support her charge of alleged sleeping while on duty or interfering with the integrity and efficiency of government

operations. Furthermore, Employee stated that it was virtually impossible that an employee who fell asleep in a parking lot closed to the public at 1:00 a.m. would cause embarrassment to the District Government. Accordingly, she requested that Agency's decision be reversed.

The AJ issued her Initial Decision on May 25, 2016. She found that Employee was sleeping when the picture was taken and opined that any reasonable person reviewing the picture would conclude that Employee was asleep while on duty. The AJ found Employee's assertion that she was meditating to be unpersuasive. Moreover, the AJ stated that Agency did not abuse its discretion when determining Employee's penalty. Hence, she posited that Agency was within its authority to suspend Employee for fifteen days given the Table of Penalties. However, she found that Agency failed to prove the neglect of duty charge. Because removal was within the range of penalties for sleeping while on duty, the AJ upheld Agency's decision to suspend Employee for fifteen days.

On August 16, 2016, Employee filed her Petition for Review. Employee provides that she was in compliance with her Collective Bargaining Agreement ("CBA"), which states that she is to receive two fifteen minute breaks on each shift, one for each two-hour period worked. Additionally, she argues that her contract did not state that she could not sleep, meditate, or pray during any break while on duty. Accordingly, Employee requests that the Board reverse her suspension with back pay.

4. **Jeffrey Ryne v. Department of Behavioral Health, OEA Matter No. J-0031-16**—Employee worked as a Food Service Worker for Agency. On February 11, 2016, Employee received a notice that he would be terminated from Agency for failure to maintain District of Columbia residency. According to the regulation, failure to maintain residency in the District shall result in forfeiture of employment by the employee."

On May 24, 2016, the AJ issued her Initial Decision. She held that DCMR § 307 outlined the appeal's procedure when determining compliance with the residence requirement. Furthermore, she concluded that pursuant to Chapter 3 of the DPM Part II, at 9.1D, OEA lacked jurisdiction to hear Employee's claims. Therefore, the AJ dismissed the appeal for lack of jurisdiction.

On August 12, 2016, Employee filed a Petition for Review of the Initial Decision. He maintains that he is a resident of the District of Columbia and was falsely terminated on the grounds of not maintaining District residency. Employee states that he has provided proof of his eligibility and status as a District resident. Therefore, Employee requests that this Board reconsider the matter.

5. **George Dunmore, Jr. v. Department of General Services, OEA Matter No. 2401-0141-10**—Employee worked as a Supervisory Mail Assistant with Agency. On October 5, 2009, Agency notified Employee that he was being separated from his position pursuant to a RIF.

Employee filed a Petition for Appeal with OEA on November 5, 2009. In his appeal, Employee stated that his separation from service was unfair and unprofessional. As a result, he requested that he be reinstated with another agency. Agency's answer was due within thirty calendar days of service of the Petition for Appeal. However, Agency did not submit a response.

An AJ was assigned to the matter in February of 2012. On February 15, 2012, the AJ issued an Order for Statement of Good Cause to Agency which required it to submit written justification for its failure to file an Answer to Employee's Petition for Appeal. Agency submitted its response to the order on February 29, 2012, stating that it was unaware that Employee filed a Petition for Appeal with OEA.

An Initial Decision was issued on May 12, 2012. The AJ first held that D.C. Official Code § 1-624.02, and not the Abolishment Act, was the appropriate statute to utilize in evaluating the instant RIF because it was not conducted for budgetary purposes. Next, the AJ stated that Employee was the sole occupant of the Supervisory Mail Assistant position in his competitive level. She further explained that when an entire competitive level is abolished pursuant to a RIF, or when a separated employee is the only member in their competitive level, the statutory provision affording him or her one round of lateral competition is inapplicable. She further determined that Agency provided Employee with at least thirty days' written notice prior to the effective date of the RIF.

With respect to Employee's request for an evidentiary hearing, the AJ stated that he provided no basis to support a finding that a hearing was warranted or that there were material issues of fact in dispute. Next, the AJ indicated that there was nothing in the record to show that Employee was prejudiced by Agency's failure to provide a timely answer to the Petition for Appeal. She noted that Agency submitted a prompt response to the Order for Statement of Good cause and provided a reasonable explanation for its failure to submit a timely response to Employee's appeal.

Employee disagreed with the Initial Decision and filed a Petition for Review with OEA's Board on October 16, 2016. He disagrees with the AJ's finding that Agency's failure to submit a timely answer to the Petition for Appeal was a harmless error. Employee also contends that Agency's RIF action was wrongful, fraudulent, and in disregard of all laws, rules, and regulations. He further reiterates that Agency did not actually abolish his position because his duties continued to be performed after the effective date of the RIF. According to Employee, the AJ also erred in finding that OEA lacks jurisdiction over grievances. Therefore, he requests that this Board grant his Petition for Review and reverse the Initial Decision.

- 6. Temisha Lassiter v. Department of Transportation, OEA Matter No. 1601-0039-14**— Employee worked as a Staff Assistant with Agency. On November 18, 2013, Agency issued a Notice of Final Decision for Proposed Removal to Employee. She was charged with “any on-duty or employment-related act or omission that interferes with the efficiency and integrity of government operations: neglect of duty” and “any knowing negligent or material misrepresentation on [a] document given to a government agency: falsification of time and attendance records.”

An Initial Decision was issued on September 16, 2016. The AJ held that Agency failed to meet its burden of proof regarding the neglect of duty charge. He stated that Employee provided credible testimony regarding her regular duties as a Staff Assistant. The AJ further explained that at the time of her removal, Employee's daily activities centered on the Department of Public Works' (“DPW”) and Agency's shared responsibility for snow removal as well as the Procurement Automated Support System (“PASS”), the District's accounting system for payment. In his analysis, the AJ noted that Agency only presented one witness during its case-in-

chief, Operations Manager, Steve Messam. The AJ provided that Messam had no first-hand knowledge of the events in question that led to Employee's termination and was not directly involved in effectuating her removal. By using Messam's testimony as the only source of justifying Employee's termination, the AJ could not reasonably conclude that there was substantial evidence in the record to prove that Agency's removal action was taken for cause.

In addition, the AJ stated that the primary purpose of conducting an evidentiary hearing is to "assess witness credibility with respect to the actors that either viewed and/or in some fashion participated in the events that led to an employee's removal." The AJ was persuaded by Employee's explanation that her position description did not authorize her to act independently when creating requisitions, invoices, or approving contracts because she was required to work at the behest of her supervisor, Angelo Rao. The AJ further believed that Employee provided credible testimony that she had her supervisor's approval for every incident cited by Agency in support of her removal. Therefore, the AJ determined that Employee did not neglect her duties as a Staff Assistant.

With respect to the falsification of time and attendance charge, the AJ held that Agency failed to provide any testimonial evidence to support its position that Employee fabricated her time and attendance records on June 10, 2013 and June 17, 2013. He was convinced by Employee's explanation that her absence on June 10, 2013 was preauthorized by her supervisor, Mr. Rao, because she was scheduled to attend training at the Federal Highway Administration ("FHA"). Regarding the June 17, 2013 time entry, Employee clarified that she had an Alternative Work Schedule ("AWS") that day and was scheduled to work from home. However, her supervisor asked that she come to work to assist with a problem concerning a contract. Thus, it only appeared as if she did not work an entire shift. Lastly, the AJ was swayed by Employee's reasoning that any remaining time entries in question were pre-approved "Comp Time," wherein her supervisor would repay her for working odd hours, such as Saturday mornings. Based on the foregoing, the AJ determined that Agency did not present any witness testimony to refute Employee's first-hand rendition of events, as it solely relied on the documentary evidence already in the record. As a result, the AJ held that Agency failed to meet its burden of proof with respect to the charge of falsification of time and attendance records. Consequently, Employee's termination was reversed and Agency was ordered to reinstate her with back pay and benefits.

Agency disagreed and filed a Petition for Review with OEA's Board on October 20, 2016. It argues that the Initial Decision was based on an erroneous interpretation of regulation because the AJ ignored the substantial documentary evidence that was submitted during the course of this appeal. According to Agency, there was no requirement to produce testimony from any persons in Employee's chain of command during the evidentiary hearing. In addition, it asserts that there is substantial documentary evidence in the record to establish that Employee made time entries in the PeopleSoft Time Reporting System for hours during which she was not present at work. Accordingly, Agency posits that it met its burden of proof to support both the neglect of duty and the falsification of time and attendance charges. Therefore, it asks that this Board reverse the Initial Decision and uphold Employee's termination.

7. **Hailemichael Seyoum, Daryao Khatri, Sharon Terrell, and Leslie Richards v. University of the District of Columbia, OEA Matter Nos. 2401-0073-15, 2401-0074-15, 2401-0084-15, and 2401-0085-15**— Employees worked as Professors with

Agency. In August of 2014, Agency informed Employees that their positions would be eliminated at the end of the 2014-2015 school year as a result of a RIF.

An Initial Decision was issued on November 18, 2016. The AJ first highlighted D.C. Official Code § 1-624.04, which provides that “[a]n employee who has received a specific notice that he or she has been identified for separation from his or her position through a reduction-in-force action may file an appeal with the Office of Employee Appeals if she or she believes that [the] agency has incorrectly applied the provisions of this subchapter or the rules and regulations issued pursuant to this subchapter....” However, he stated that the CMPA treats Educational Service employees of UDC differently from other District government employees. The AJ noted that the *D.C. Court of Appeals in Davis v. University of the District of Columbia*, held that Educational employees of UDC are expressly excluded from appealing the loss of their position through a RIF action to OEA. Notwithstanding Employees’ arguments to the contrary, the AJ determined that Agency was duly authorized to conduct the instant RIF because of a lack of work pursuant to D.C. Official Code § 1-602.03(b). He further held that OEA lacked the jurisdictional authority to review Agency’s RIF action because Employees were Educational Service employees of UDC at the time of their separations from service. Consequently, their Petitions for Appeal were dismissed for lack of jurisdiction.

Employees disagreed with the Initial Decision and filed a Consolidated Petition for Review with OEA’s Board on December 9, 2016. They argue that there has been a substantial change in law regarding an Educational Service employee’s right to appeal a RIF to OEA. Employees cite to the holdings in *Board of Trustees of the University of the District of Columbia v. AFSCME District Council 20, Local 2087* and *University of the District of Columbia Faculty Association/NEA, et al., v. Board of Trustees of the University of the District of Columbia*, in support of their position that OEA has jurisdiction the instant RIF. In addition, they contend that the AJ’s finding that Agency’s RIF action was conducted due to a lack of work is an erroneous interpretation of law. Therefore, Employees request that this Board reverse the AJ’s Initial Decision.

Agency filed its Answer to Employees’ Petition for Review on January 6, 2017. It maintains that the AJ correctly determined that OEA lacks jurisdiction over appeals from Educational Service employees of UDC challenging a RIF. Agency further suggests that Employees waived their argument that there was been a change in the law which confers OEA’s jurisdiction over appeals by Educational Service employees of UDC concerning RIF actions. In addition, it states that the new case law presented by Employees does not overturn the ruling in *Davis*. Moreover, it opines that the AJ’s finding that the RIF action was duly conducted because of a lack of work is supported by substantial evidence. Thus, Agency believes that Employees’ Petition for Review should be denied.

8. **Gina Vaughn v. Metropolitan Police Department, OEA Matter No. 2401-0020-12R16**—This case was previously before the OEA Board. Employee worked as a Computer Specialist with Agency. On September 14, 2011, Agency notified Employee that she was being separated from her position pursuant to a RIF.

The AJ issued an Initial Decision on December 11, 2014. He held that Employee’s separation from service was based on inaccurate documents. Specifically, the AJ provided that at the time of the RIF, Employee’s official position of record was a

Computer Specialist, CS-334-12, Step 8. However, Agency's September 14, 2011 RIF notification listed her competitive level as DS-0034-12-10-N. Therefore, the AJ concluded that Employee was improperly separated from service from a position that she did not officially occupy. Consequently, Agency's RIF action was reversed, and Employee was ordered to be reinstated with back pay and benefits.

Agency filed a Petition for Review with OEA's Board on January 15, 2015. The OEA Board issued its Opinion and Order on Petition for Review on May 10, 2016. It first provided that the AJ erred by not affording Agency an opportunity to address any of Employee's material allegations pertinent to the RIF. Of note, Agency was not given a chance to provide an explanation regarding the discrepancies and inaccuracies that the AJ used as a basis for reversing the RIF action. In addition, the Board determined that the AJ made a mistake of fact in finding that the "07" designation in Employee's Competitive Level DS-0334-12-07-N designation referred to a step in the pay scale grade instead of the actual position description. As a result, the matter was remanded to the AJ for further proceedings to determine whether Employee was placed in the correct competitive level and whether the inconsistencies in the RIF documents constituted a reversible error.

On remand, the AJ ordered the parties to submit briefs addressing the issues enumerated in the Opinion and Order on Petition for Review. Agency filed a Remand Brief in Support of Reduction-in-Force on July 29, 2016. It reiterated that Employee was placed in the correct competitive level, Computer Specialist, DS-0334-12-07-N. Agency further clarified that the retention register it created included five factors/identifiers that represented Employee's competitive level, also known as a Competitive Level Code ("CLC"). Specifically, Agency provided that the CLC consisted of the pay plan; classification series of the position included on the retention register; grade level of the position; numerical designator for the position; and whether the position was supervisory or non-supervisory. Agency conceded that the documents of record reflected a slight discrepancy in Employee's CLC. However, it opined that the differences did not constitute a reversible error. Thus, Agency argued that its RIF action should be upheld because Employee was separated from service in accordance with all applicable statutes and regulations.

On August 1, 2016, Employee's former attorney, Leslie Deak, filed a Brief in Response to the Remand Order Opposing the RIF. She submitted that Employee's correct position at the time of the RIF was Computer Specialist, DS-0334-12-10-N, not DS-0334-12-07-N. Attorney Deak further stated that Agency's mistake constituted a reversible error because Employee was working under a position description that was designated for a competitive level different than the one in which she was placed. In addition, she contended that the Administrative Order did not include her position number as one to be eliminated under the RIF. Accordingly, attorney Deak reasoned that but for Agency's errors, Employee would not have been separated from service under the RIF. As a result, she asked that Agency's RIF action be reversed.

Agency filed a Reply to Employee's Brief in Response to the Remand Order Opposing the RIF on August 19, 2016. It emphasized that the AJ correctly held that the inconsistencies in the RIF documents constituted a harmless error. Agency further stated that the position number on Employee's RIF documents was correctly listed as 00013015.

The AJ issued his Initial Decision on Remand on September 9, 2016. He highlighted Chapter 6B, Section 2410.4 of the D.C. Municipal Regulations (“DCMR”), which provides that a competitive level shall encompass only those positions that are of the same grade and classification series and which are sufficiently alike in qualification requirements, duties, and responsibilities. According to the AJ, a competitive level is the grouping of positions with the same classification series and grade; whereas, the CLC is used to identify the positions that are in the group. Based on the evidence submitted by the parties, the AJ determined that Employee was placed in the correct competitive level. He further concluded that Employee’s CLC at the time of the RIF was Computer Specialist, DS-0334-12-07-N, as the fourth identifier was a numerical designator for the position description that was established to differentiate her duties and responsibilities from the significantly different duties of other Computer Specialist (0334-12) positions. In addition, the AJ provided that the inconsistencies in the RIF documents constituted a harmless error because they did not significantly affect Agency’s final decision to separate Employee from service. Therefore, the AJ reversed his previous ruling and upheld Agency’s RIF action on remand.

On October 18, 2016, Employee filed a Request for Extension of Time to File a Brief with OEA. In her request, Employee stated that she made several attempts to contact her attorney of record, Leslie Deak, to determine whether a brief was filed on her behalf concerning the outstanding issues on remand. To avoid the dismissal of her appeal, Employee requested an additional week in which to file her brief. On October 27, 2016, Employee filed a second letter titled “Abandonment by Attorney: Request for Leave to Obtain Attorney & Further [Extend Time] to File Brief-Memorandum on Pending Issues on Remand.” Employee stated that she was unsuccessful in eliciting an update regarding the status of her pending appeal on remand from her attorney. Thus, she requested leave to find new counsel to represent her before OEA.

On December 19, 2016, Employee’s newly-retained attorney, Stephen Leckar, filed a Motion for Leave to Submit Memorandum in Support of Petition for Review of Initial Decision, wherein he asserts that Employee submitted a timely pro se letter to OEA after being abandoned by her previous attorney. According to attorney Leckar, the letter should be considered as a “nascent” Petition for Review. Additionally, he seeks leave to submit a brief in support of Employee’s argument that the AJ failed to address her claim that her competitive level should have included a fellow DS-12 Computer Specialist in her office who had significantly less seniority. Therefore, Employee’s attorney requests leave to supplement the previously submitted letters and to explain why the AJ failed to address a dispositive matter of law that was timely raised before the AJ.

In response, Agency argues that Employee’s letter requesting an extension of time to file a brief on remand does not constitute a Petition for Review. It further states that the issue raised in Employee’s Motion for Leave regarding the inclusion of another Computer Specialist in her competitive level was previously decided in the AJ’s December 11, 2014 Initial Decision. As a result, Agency asks this Board to dismiss Employee’s motion. Alternatively, it opines that if the Board considers Employee’s filing as a Petition for Review, her argument regarding the establishment of her competitive level should not be considered because the issue was already adjudicated by the AJ.

E. Deliberations - After the summaries were provided, Vera Abbott moved that the meeting be closed for deliberations. P. Victoria Williams seconded the motion. All Board members voted in favor of closing the meeting. Sheree Price stated that, in accordance with D.C. Official Code § 2-575(b)(13), the meeting was closed for deliberations.

F. Open Portion of Meeting Resumed

G. Final Votes –Sheree Price provided that the Board considered all of the matters. The following represents the final votes for each case:

1. Brendan Cassidy v. D.C. Public Schools

MEMBER	GRANTED	DENIED	REMANDED	DISMISSED
Sheree Price		X		
Vera Abbott	X			
Patricia Hobson Wilson		X		
P. Victoria Williams		X		

Three Board Members voted in favor of denying Employee’s Motion to Expedite. Therefore, the motion was denied.

2. Carmen Faulkner v. D.C. Public Schools

MEMBER	GRANTED	DENIED	REMANDED	DISMISSED
Sheree Price		X		
Vera Abbott		X		
Patricia Hobson Wilson		X		
P. Victoria Williams		X		

Four Board Members voted in favor of denying Employee’s Petition for Review on Remand. Therefore, the petition was denied.

3. Sheena Washington v. Department of Transportation

MEMBER	GRANTED	DENIED	REMANDED	DISMISSED
Sheree Price		X		
Vera Abbott		X		
Patricia Hobson Wilson		X		
P. Victoria Williams		X		

Four Board Members voted in favor of denying Agency’s Petition for Review on Remand. Therefore, the petition was denied.

4. Tameka Garner Barry v. Department of Public Works

MEMBER	GRANTED	DENIED	REMANDED	DISMISSED
Sheree Price		X		
Vera Abbott		X		
Patricia Hobson Wilson		X		
P. Victoria Williams		X		

Four Board Members voted in favor of denying Employee's Petition for Review. Therefore, the petition was denied.

5. Jeffrey Ryne v. Department of Behavioral Health

MEMBER	GRANTED	DENIED	REMANDED	DISMISSED
Sheree Price		X		
Vera Abbott		X		
Patricia Hobson Wilson		X		
P. Victoria Williams		X		

Four Board Members voted in favor of denying Employee's Petition for Review. Therefore, the petition was denied.

6. George Dunmore, Jr. v. Department of General Services

MEMBER	GRANTED	DENIED	REMANDED	DISMISSED
Sheree Price		X		
Vera Abbott		X		
Patricia Hobson Wilson		X		
P. Victoria Williams		X		

Four Board Members voted in favor of denying Employee's Petition for Review. Therefore, the petition was denied.

7. Temisha Lassiter v. Department of Transportation

MEMBER	GRANTED	DENIED	REMANDED	DISMISSED
Sheree Price		X		
Vera Abbott		X		
Patricia Hobson Wilson		X		
P. Victoria Williams		X		

Four Board Members voted in favor of denying Agency's Petition for Review. Therefore, the petition was denied.

8. Hailemichael Seyoum, Daryao Khatri, Sharon Terrell, and Leslie Richards v. University of the District of Columbia

MEMBER	GRANTED	DENIED	REMANDED	DISMISSED
Sheree Price		X		
Vera Abbott		X		
Patricia Hobson Wilson		X		
P. Victoria Williams		X		

Four Board Members voted in favor of denying Employees' Petition for Review. Therefore, the petition was denied.

9. Gina Vaughn v. Metropolitan Police Department

MEMBER	GRANTED	DENIED	REMANDED	DISMISSED
Sheree Price		X		
Vera Abbott		X		
Patricia Hobson Wilson		X		
P. Victoria Williams		X		

Four Board Members voted in favor of denying Employee's filing. Therefore, the filing was denied.

H. Public Comments – There were no public comments offered.

VI. Adjournment – P. Victoria Williams moved that the meeting be adjourned; Vera Abbott seconded the motion. All members voted affirmatively to adjourn the meeting. Sheree Price adjourned the meeting at 12:34 p.m.

Respectfully Submitted,
Wynter Clarke
Paralegal Specialist